

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Pac-West Telecomm, Inc.,

Complainant,

vs.

Pacific Bell Telephone Company,

Defendant.

Case 02-03-011  
(Filed April 19, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING  
GRANTING MOTION TO SET ASIDE SUBMISSION**

This ruling grants Pac-West Telecomm, Inc.'s (Pac-West) August 29, 2002 Motion to Set Aside Submission. Although Pac-West's allegation that Pacific Bell Telephone Company's (SBC Pacific Bell) testimony concerning whether Pac-West can use an Access Customer Terminal Location (ACTL) code in the Access Service Request (ASR) process is not essential to determine whether the 1.544 Mbps/DS-1 circuits should be priced at the TMEPS (interexchange carrier point of termination) or TMECS (end-user location) tariffed rate, the record should reflect that Pac-West disputes SBC Pacific Bell's testimony on that issue.

Pac-West moves to set aside submission to accept the affidavit of John Sumpter. Sumpter's affidavit challenges SBC Pacific Bell's witness Michael Slater's testimony concerning the ASR process. SBC Pacific Bell opposes the motion and states it should be denied because Sumpter's affidavit is irrelevant to

the pricing issue in this proceeding. Further, SBC Pacific Bell opposes the motion, because the affidavit is inaccurate and SBC Pacific Bell has not had the opportunity to cross-examine Sumpter on the factual assertions.

Although it is not essential to determine whether Pac-West can use an ACTL in the ASR process, the record should reflect that this fact is disputed. Because the evidentiary record is closed and this proceeding would have been submitted on the filing of reply briefs on October 3, 2002, the Sumpter Affidavit will be accepted as filed. SBC Pacific Bell shall have until October 18, 2002 to submit an affidavit that responds to Sumpter's.

**IT IS RULED that:**

1. Pac-West Telecomm, Inc.'s Motion to Set Aside Submission to file the Affidavit of John Sumpter is granted.
2. Pacific Bell Telephone Company shall file any supplemental affidavit by October 18, 2002.

Dated October 1, 2002, at San Francisco, California.

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/s/ JANICE GRAU  
Janice Grau  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Granting Motion to Set Aside Submission on all parties of record in this proceeding or their attorneys of record.

Dated October 1, 2002, at San Francisco, California.

/s/ TERESITA C. GALLARDO

Teresita C. Gallardo

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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